

Application No. 10/689,397  
Amendment Dated 2/15/06  
Reply to Office Action of 11/15/05

### **REMARKS**

This Amendment is submitted in response to the Office Action mailed on November 15, 2005. Applicant's counsel appreciates the courtesy extended by Examiner Becker during the telephone interview conducted on even date herewith. Claims 26-28 have been amended as discussed during the telephone interview, and claim 30 stands withdrawn from consideration. Claims 26-29 remain in the present application. In view of the foregoing amendments, as well as the following remarks, Applicant respectfully submits that this application is in complete condition for allowance and request reconsideration of the application in this regard.

As discussed during the telephone interview, Applicant has amended independent claim 26 to recite for a cold start batch, heat is applied to the kettle without PID temperature control to pop the popping corn of the cold start batch within the kettle. Independent claim 26 has further been amended to recite that for a subsequent batch, heat is applied to the kettle with PID temperature control to pop the popping corn of the subsequent batch within the kettle. Support for this amendment is located at Page 76, line 17 through Page 87, line 10, of Applicant's disclosure, for example, and in Figs. 15 and 16.

As set forth in Applicant's prior Amendment mailed on September 6, 2005, in one embodiment of the present invention, a PID or "proportional integral derivative" scheme is used to control the kettle heater. In this embodiment, the PID features are overridden for at least the first cooking cycle (i.e., the cold start batch) so

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that the kettle temperature ramps up toward a Tcontrol temperature which may be essentially a high limit temperature. This allows the kettle and other heated components of the system to approach thermal equilibrium for cooking subsequent batches of corn. During a subsequent cooking cycle, the PID features take over and the system is then under control of the PID feature so that the kettle heater will be controlled to deliver heat to the kettle to keep an empty kettle around a desired Tload/Tdump set point. The Tcontrol temperature during the cold batch start may be higher than the Tload/Tdump temperature of subsequent batches as shown in Fig. 16. Accordingly, for a cold batch start, the kettle is heated without use of PID features. For subsequent batches, the kettle is heated with use of PID features. This feature of the invention is shown in Figs. 15 and 16, for example.

In contrast, VandeWalker is directed to a popcorn popping machine that uses a heater to heat the kettle to a popping temperature (e.g. 390°-410°F) set through manipulation of a variable resistor (see Col. 5, line 61 through Col. 6, line 13). Upon reaching that temperature, a sensor and triac control the flow of current through the heater to maintain the set popping temperature (see Col. 6, lines 31-35). Applicant respectfully submits that VandeWalker fails to teach or suggest the combination of method steps recited in amended independent claim 26 and the rejection should be withdrawn.

Applicant respectfully submits that the prior art of record fails to teach or suggest heating of a kettle without PID temperature control for a cold start batch and

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with PID temperature control for a subsequent batch as recited in independent claim

26. Accordingly, allowance of independent claim 26 is respectfully requested.

Moreover, as claims 27-29 depend from allowable independent claim 26, and further as each of these claims recites a combination of steps not taught or suggested by the prior art of record, Applicant submits that these claims are allowable as well.

In view of the amendment to independent claim 26, Applicant respectfully traverses the rejections of 26-29 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-18 of U.S. Patent No. 6,543,103 and claims 1-6 of U.S. Patent No. 6,352,731 and respectfully requests that the rejections be withdrawn.

Applicant respectfully submits that the rejections of claims 26-29 under 35 U.S.C. §112, first paragraph, should be withdrawn in view of the amendments made to claims 26-28.

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**Conclusion**

In view of the foregoing response including the amendments and remarks, this application is submitted to be in complete condition for allowance and early notice to this affect is earnestly solicited. If there is any issue that remains which may be resolved by telephone conference, the Examiner is invited to contact the undersigned in order to resolve the same and expedite the allowance of this application.

Applicant does not believe that this response requires that any fees be submitted, however, if any fees are deemed necessary, these may be charged to Deposit Account No. 23-3000.

Respectfully submitted,

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